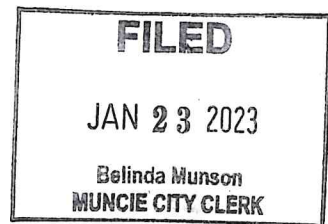


ORDINANCE NO. 4-23



**AN ORDINANCE OF THE CITY OF MUNCIE AMENDING SECTION 152.16 OF THE CITY OF MUNCIE CODE OF ORDINANCES**

WHEREAS, the Common Council of the City of Muncie adopted Ordinance No. 42-21, which added Section 152.16 to the City of Muncie Code of Ordinances in 2021; and

WHEREAS, Section 152.16 of the City of Muncie Code of Ordinances provides for a vacant and abandoned property registration and sets forth maintenance standards for vacant and abandoned properties; and

WHEREAS, the Common Council of the City of Muncie adopted Ordinance No. 4-22, which amended certain portions of Section 152.16 at the request of the City of Muncie Building Commissioner's Office; and

WHEREAS, the City of Muncie Building Commissioner's Office has now recommended additional amendments to Section 152.16 to permit code enforcement to address additional properties that are a threat to the safety, health and welfare of the City of Muncie; and

WHEREAS, the Common Council of the City of Muncie has determined that the amendments proposed by the Building Commissioner's Office should be implemented.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MUNCIE THAT:

**Section 1:** Section 152.16 of the City of Muncie Code of Ordinances is hereby amended to read as follows:

**Sec. 152.16 – Vacant and Abandoned Structures**

(A) **Definitions:** For the purposes of this Chapter, the following definitions shall apply:

*Abandoned Structure* means any of the following:

(1) Commercial real property or a vacant structure on commercial real property that was previously used for industrial or commercial purposes and that has not been used for a legal purpose for at least six (6) months, and:

(A) that the owner of the property or structure has declared in writing to be abandoned; or

- (B) for which the owner of the property or structure has been given a written order by an enforcement authority to rehabilitate or demolish, and the owner:
  - (i) has not applied for a permit to rehabilitate or demolish the property or structure; or
  - (ii) applied for and was granted a permit, but rehabilitation or demolition work has not commenced on the property or structure within thirty (30) days after the date the permit was granted.
- (2) Real property that has not been used for a legal purpose for at least six (6) consecutive months and:
  - (A) in the judgment of an enforcement authority, is in need of completion, rehabilitation, or repair, and completion, rehabilitation, or repair work has not taken place on the property for at least six (6) consecutive months;
  - (B) on which at least one (1) installment of property taxes is delinquent; or
  - (C) that has been declared a public nuisance by a hearing authority.
- (3) Real property that has been declared in writing to be abandoned by the owner, including an estate or a trust that possesses the property.
- (4) Vacant real property on which a municipal lien has remained unpaid for at least one (1) year.
- (5) Real estate that a court has determined to be abandoned under IC 32-30-10.6.

*City* means the City of Muncie, Indiana.

*Enforcement Authority* means the Muncie Building Commissioner's office.

*Municipal Code* means the Code of Ordinances of the City of Muncie.

*Owner* means any person who, alone, jointly, or severally with others, shall have title to any building or dwelling unit with or without accompanying actual possession thereof.

*Owner's Representative* means a person hired by the owner to represent and/or advocate on the owner's behalf.

*Person* means any entity including any of the following: individual, firm, corporation, association, partnership, or limited liability corporation/company. References in the masculine gender include the feminine and the neuter, in the present tense includes the future, and the singular includes the plural.

*Property* means the real property upon which a Vacant Structure and/or Abandoned Structure is located.

*Property Manager* means an individual or entity responsible for the day-to-day functioning of a piece of real estate.

*Vacant Structure* means a structure or building that is not being occupied by an owner, tenant, or others authorized by the owner and is not adequately secured against unlawful entry.

*Vacant and/or Abandoned Structure* means a structure that satisfies the definition of Abandoned Structure and/or Vacant Structure set forth herein.

**(B) Continuing Maintenance Mandatory and Voluntary Registration**

1. Upon locating a building that is deemed to be a Vacant and/or Abandoned Structure, the Enforcement Authority may issue to the building owner an order to register and/or for continuing maintenance pursuant to the Unsafe Building Act, I.C. 36-7-9 (if the building satisfies the criteria of an unsafe building), as it may be amended from time to time, or pursuant to similar authority granted by state statute, this code or other statutes, ordinances, and regulations.
2. The Enforcement Authority may order the owner of a structure that is a Vacant and/or Abandoned Structure to register the structure with the Enforcement Authority.
3. The owner of a structure that is unoccupied but does not meet the definition of a Vacant Structure or Abandoned Structure, may voluntarily register the structure with the Enforcement Authority, so as to notify City officials of the Property Manager and exchange other information pertinent to the condition of the structure.
4. The owner of a Property that has been deemed to be a Vacant and/or Abandoned Structure may, within 30 days from receiving notice of such a determination, challenge the determination in writing with the Unsafe Building Hearing Authority or, in the case of a Vacant Structure, adequately secure the structure from unlawful entry.
5. In determining that a structure is a Vacant Structure, the Enforcement Authority may rely upon the lack of water, electric or wastewater utility service. Any maintenance order issued by the Enforcement Authority may be challenged or enforced by the Unsafe Building Hearing Authority.
6. The owner of a Property that has been determined to be a Vacant and/or Abandoned Structure is required to secure the Property from unlawful entry in accordance with Section (B)(2) below within 30 days of receiving notice from the Enforcement

Authority that the Property has been determined to be a Vacant and/or Abandoned Structure, unless the owner challenges the determination in accordance with Section B(4) above. In the event of a challenge that is denied by the Unsafe Building Hearing Authority, the Owner shall board and secure the Property within 10 days of the denial.

- a. If the owner fails to secure the Property from unlawful entry within the time provided above, the Enforcement Authority may cause the Property to be secured with the owner being invoiced for the costs incurred by the Enforcement Authority, including administrative costs incurred by the Enforcement Authority.
- b. If the owner fails to pay the invoice described above within the time provided, the Enforcement Authority may obtain a lien against the Property in the amount of the unpaid invoice. The lien shall be included on the property tax invoice for the Property and collected in the same manner as property taxes are collected. The lien will be released upon payment of the full amount of the invoice by filing a release with the Delaware County Recorder's Office.

**(C) Registration of Buildings and Structures.**

The owner of a structure that is a Vacant and/or Abandoned Structure shall register the structure with the Enforcement Authority upon receipt of an order for registration. The registration shall be renewed annually for each year that the structure is a Vacant and/or Abandoned Structure. Registration shall be on a form provided by the Enforcement Authority, shall be verified under penalties of perjury, and shall include the following:

1. Street address of the affected property;
2. The name(s), mailing address(es) and telephone(s) of the owner(s) or entities which hold any ownership interest, land contract, mortgage, or other lien interest in the property, and all beneficiaries of any land trust which owns the property.
3. Copy of the most recently executed deed used to transfer title to the property and the most recently prepared Indiana Sales Disclosure Form, if available to the owner.
4. Property Manager's information, if applicable, including the name, mailing address, location address, if different from mailing address, and telephone.

5. Name of any insurance company providing insurance coverage for the Vacant and/or Abandoned Structure, including the representing agent's name, address and telephone number.
6. If the Vacant and/or Abandoned Structure is not in compliance with the maintenance standards of this Chapter at the time of registration, the registration shall include a written plan to bring the Property into compliance with the maintenance standard of this Chapter.
  - a. The schedule shall not exceed 10 days unless it is demonstrated to the Enforcement Authority that additional time is necessary to avoid undue hardship to the owner due to the quantity of work required.
  - b. The owner's request for additional time shall be supported by relevant documentation, including, but not limited to, bids, quotes for the work, and the owner's financial statement, based upon a financial disclosure statement.
  - c. The owner's schedule and plan does not relieve the owner of any order issued pursuant to the Unsafe Building Ordinance, or compliance with the Minimum Housing Standards Ordinance or Minimum Standards for Non-Residential Properties Ordinance.
  - d. The Enforcement Authority's receipt of the plan does not constitute approval of the owner's plan or of any violation of property maintenance ordinances.
7. The owner is responsible for providing an updated registration form to the Enforcement Authority within ten (10) business days of any change in ownership or any information contained on the registration form.
8. Failure of the owner to provide updated information within ten (10) business days of any change in the registration is a violation of this chapter.

**(D) Standards for Maintenance.**

1. The owner or Property Manager of the Vacant and/or Abandoned Structure shall ensure that the Property is regularly inspected and secured against unlawful entry, that the property is cleaned, and vegetation is mowed. Records of inspections shall be provided to the Enforcement Authority upon request.



2. Door and window openings of all Vacant Structures and/or Abandoned Structures shall be secured against unlawful entry by the use of locks designed for such use, or the use of boarding. If boarding is used to secure the structure, the following standard shall be met:
  - a. Windows shall be framed by standard two-inch by four-inch lumber secured with plywood to the frame using six (6) seven-inch (7") lag bolts into king studs in all corners and in the center of the vertical boards. Plywood shall be a minimum of four-ply rated for exterior exposure, no less than one-half inch in thickness and attached with tamper proof screws, no less than three (3) inches in length and spaced no more than eight inches on-center.
  - b. Doors may be secured against unlawful entry using locks designed to prevent unlawful entry or by framing nominal two-inch by four-inch lumber secured with plywood to the frame using six (6) seven-inch lag bolts into king studs in all corners and in the center of the vertical boards. Plywood shall be a minimum of four-ply rated for exterior exposure, no less than one-half inch in thickness and attached with tamper proof screws, no less than three inches in length and spaced no more than eight inches on-center.
  - c. The Enforcement Authority may approve alternative methods to secure windows or doors, upon the owner presenting the following information
    1. Type of material to be use;
    2. Thickness of material;
    3. Method that will be used to attach the material to the building or structure.
3. Boarding of a Vacant Structure and/or Abandoned Structure is to be considered temporary and not a long-term method of securing the building or structure. After one (1) year of boarding as the method of securing against unlawful entry, the owner of a Vacant Structure and/or Abandoned Structure shall utilize locks, install appropriate windows and/or doors, or provide an alternative method of security approved by the enforcement authority.
4. Boarding used to secure doors and/or windows for more than 30 days shall be surface coated with an exterior grade paint matching the exterior of the structure to reduce the blighting effect of the structure. The failure to comply with the Maintenance Standards shall be considered a violation of this chapter.

**(E) Registration Fee.**

1. The owner of any Vacant and/or Abandoned Structure shall pay the registration fees set forth below to the City of Muncie through the Enforcement Authority. The registration shall be renewed annually until such time that the structure is no longer declared to be a Vacant and/or Abandoned Structure.
2. Owners who voluntarily register an unoccupied structure that does not satisfy the definition of Vacant Structure or Abandoned Structure, are not required to pay a registration fee.
3. Registration fees for a Vacant and/or Abandoned Structure shall be as follows:
  - a. The owner of a Vacant and/or Abandoned Structure ordered to register by the Enforcement Authority that registers within the time provided in the order shall pay a \$100.00 registration fee. The registration fee shall increase to \$300.00 if the owner does not register within the time provided in the order. The registration fee shall increase to \$500.00 if the owner does not register within 60 days after the expiration of the time provided in the order. If the owner does not register within 120 days after the expiration of the time provided in the order, the matter shall be referred to the Unsafe Building Hearing Authority.
  - b. The owner of a previously registered Vacant and/or Abandoned Structure that voluntarily renews a registration before May 10<sup>th</sup> of each year that a renewal registration is required will not incur a registration fee. In the event the owner fails to renew a registration by May 10<sup>th</sup> of each year, the renewal fee shall be as follows:
    - i. \$100.00 if renewed between May 11<sup>th</sup> and June 9<sup>th</sup>;
    - ii. \$300.00 if renewed between June 10<sup>th</sup> and July 9<sup>th</sup>; and
    - iii. \$500.00 if renewed between July 10<sup>th</sup> and September 7<sup>th</sup>.

If the registration is not renewed by September 7<sup>th</sup>, the matter shall be referred to the Unsafe Building Hearing Authority.

- c. If the City is forced to initiate legal action to enforce the registration requirement of this chapter, the registration fee shall be \$1,000.00.
- d. The registration fee set forth herein shall be in addition to any penalty assessed pursuant to Section (H) for a violation of this Chapter.

**(F) Property Manager.**

1. The owner of a Vacant and/or Abandoned Structure shall identify a Property Manager as part of the registration required by this Chapter.

2. If the Property Manager is an individual, he/she shall reside in the State of Indiana.
3. If the Property Manager is a corporation, limited liability company, partnership, or other organization, it shall have a principal office located in the State of Indiana.
4. The Property Manager shall be readily available to be contacted by the City and promptly respond to emergency conditions that exist with respect to the Vacant and/or Abandoned Structure.
5. The failure to make the property manager available as required is a separate violation of this chapter.

**(G) Exemptions.**

1. The Unsafe Building Hearing Authority may grant an exception for properties to register if:
  - a. The property is the subject of an open probate estate; or
  - b. The property has suffered extensive fire or catastrophic damage within the past 90 days.
2. Any exemption granted under this section shall be for a specific period of time, not to exceed 6 months.
3. Exemption from the registration requirement shall not constitute approval of any violation of this chapter, or any other applicable ordinance or law.

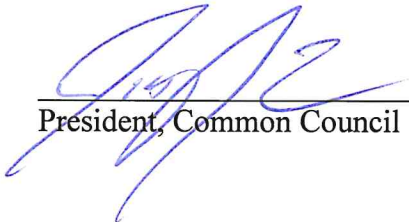
**(H) Penalty.** An owner of Property that violates any provision of this Chapter is subject to a civil penalty of not more than \$5,000.00 in addition to all other legal remedies available to the City.

**Section 2:** This Ordinance shall be in full force and effect from and after its passage by the Common Council and its approval by the Mayor of the City of Muncie, Indiana, and such publication as may be required by law.

Passed by the Common Council of the City of Muncie, Indiana, this 6 day of March, 2023



	Yeas	Nays	Abstained	Absent
Jeff Green	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
Jeff Robinson	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
Brandon Garrett	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
Isaac Miller	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
Jerry D. Dishman	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
Roger Overbey	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
Aaron Clark	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
Troy Ingram	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
Roza Selvey	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>

  
President, Common Council

ATTEST:

  
Belinda Munson, City Clerk


Presented by me to the Mayor for his approval this 6 day of March, 2023.

  
Belinda Munson, City Clerk

The above Ordinance is approved/vetoed by me this 6 day of March, 2023.

  
Dan Ridenour, Mayor

This Ordinance is proposed by Council Member

This Ordinance is approved in form by Legal Counsel

